

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1122

Introduced by Assembly Member Lieu

February 27, 2009

An act to add Section 597.4 to the Penal Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1122, as amended, Lieu. Animal abuse: sale of live animals: flea markets.

Existing law proscribes animal abuse, as specified, including the failure to maintain and care for the premises and animals at pet shops. Existing law also generally provides that a pet store shall not sell, offer for sale, trade, or barter any dog or cat that is under 8 weeks of age, but may sell, offer for sale, trade, or barter a dog or cat over 8 weeks of age only if the animal is weaned.

This bill would provide, in addition and with specified exceptions, that it shall be a crime, punishable as specified, for any person to willfully sell, ~~trade, barter,~~ display, or offer for sale, ~~trade, or barter,~~ or give away as part of a commercial transaction a live animal on any street, highway, public right-of-way, commercial parking lot, or at any outdoor special sale, swap meet, flea market, parking lot sale, carnival, or boardwalk. The bill would provide that a notice describing the charge and the penalty for a violation of this bill may be issued by a peace officer, animal control officer, or humane officer. By creating a new crime ~~and by imposing new duties on local animal control officers,~~ this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 597.4 is added to the Penal Code, to read:

2 597.4. (a) It shall be unlawful for any person to willfully sell,
3 ~~trade, barter,~~ display, or offer for sale, ~~trade, or barter,~~ or give away
4 as part of a commercial transaction a live animal on any street,
5 highway, public right-of-way, commercial parking lot, or at any
6 outdoor special sale, swap meet, flea market, parking lot sale,
7 carnival, or boardwalk.

8 (b) (1) A person who violates this section for the first time shall
9 be guilty of an infraction punishable by a fine not to exceed two
10 hundred fifty dollars (\$250).

11 (2) A person who violates this section for the first time and by
12 that violation either causes or permits any animal to suffer or be
13 injured, or causes or permits any animal to be placed in a situation
14 in which its life or health may be endangered, shall be guilty of a
15 misdemeanor.

16 (3) A person who violates this section for a second or subsequent
17 time shall be guilty of a misdemeanor.

18 (c) A person who is guilty of a misdemeanor violation of this
19 section shall be punishable by a fine not to exceed one thousand
20 dollars (\$1,000) per violation; the court shall weigh the gravity of
21 the violation in setting the fine.

22 (d) A notice describing the charge and the penalty for a violation
23 of this section may be issued by any peace officer; animal control
24 officer, as defined in Section 830.9; or humane officer qualified
25 pursuant to Section 14502 or 14503 of the Corporations Code.

26 (e) This section shall not apply to the following:

27 ~~(1) An event held primarily for the auction or sale of agricultural~~
28 ~~livestock.~~

29 ~~(2) A tax-exempt nonprofit organization founded for the~~
30 ~~prevention of cruelty to animals.~~

1 (1) *Events held by 4-H Clubs, Junior Farmers Clubs, or Future*
2 *Farmers Clubs.*

3 (2) *California Exposition and State Fair or county fairs.*

4 (3) *Stockyards with respect to which the Secretary of the United*
5 *States Department of Agriculture has posted notice that the*
6 *stockyards are regulated by the federal Packers and Stockyards*
7 *Act (7 U.S.C. Sec. 181 et seq.).*

8 (4) *The sale of cattle on consignment at any public cattle sales*
9 *market; the sale of sheep on consignment at any public sheep sales*
10 *market; the sale of swine on consignment at any public swine sales*
11 *market; the sale of goats on consignment at any public goat sales*
12 *market; and the sale of equine on consignment at any public equine*
13 *sales market.*

14 (5) *Live animal markets regulated under Section 597.3.*

15 ~~(3)~~

16 (6) *A public animal control department agency or shelter, society*
17 *for the prevention of cruelty to animals shelter, humane society*
18 *shelter, or rescue group regulated under Division 14 (commencing*
19 *with Section 30501) of the Food and Agricultural Code. For*
20 *purposes of this section, "rescue group" is a not-for-profit entity*
21 *whose primary purpose is the placement of dogs, cats, or other*
22 *animals that have been removed from a public animal control*
23 *agency or shelter, society for the prevention of cruelty to animals*
24 *shelter, or humane society shelter, or that have been surrendered*
25 *or relinquished to the entity by the previous owner.*

26 (f) Nothing in this section shall be construed to in any way limit
27 or affect the application or enforcement of any other law that
28 protects animals or the rights of consumers, including, but not
29 limited to, the Lockyer-Polanco-Farr Pet Protection Act contained
30 in Article 2 (commencing with Section 122125) of Chapter 5 of
31 Part 6 of Division 105 of the Health and Safety Code, or Sections
32 597 and 5971 of this code.

33 (g) Nothing in this ~~chapter~~ *section* limits or authorizes any act
34 or omission that violates Section 597 or ~~5971~~ 5971 of this code, or
35 any other local, state, or federal law. The procedures set forth in
36 this section shall not apply to any civil violation of any other local,
37 state, or federal law that protects animals or the rights of
38 consumers, or to a violation of Section 597 or ~~5971~~ 5971 of this
39 code, which is cited or prosecuted pursuant to one or both of those

1 sections, or to a violation of any other local, state, or federal law
2 that is cited or prosecuted pursuant to that law.
3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.